

FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

November 26, 2004

### **VIA FACSIMILE AND FIRST CLASS MAIL**

Tracey L Ligon, Esq Office of the General Counsel Federal Election Commission 999 E St, NW Washington, DC 20463

**RE MUR 5390** 

Dear Ms Ligon.

Enclosed please find the response of the Republican National Committee and Michael L Retzer, as treasurer, in the above-captioned matter

Please contact the RNC Counsel's Office at (202) 863-8638 if you have any questions

Sincerely,

Eric Brown
Deputy Counsel



### BEFORE THE FEDERAL ELECTION COMMISSION OF A II: 23

| In the Matter of              |   |                 |
|-------------------------------|---|-----------------|
|                               | ) |                 |
|                               | ) | <b>MUR 5390</b> |
| Federal Election Commission's | ) |                 |
| Factual and Legal Analysis    | ) |                 |
|                               | ) |                 |

## RESPONSE OF THE REPUBLICAN NATIONAL COMMITTEE AND MICHAEL L. RETZER, AS TREASURER

On September 30, 2004, the Federal Election Commission notified the Republican National Committee and Michael L Retzer, as treasurer ("RNC"), that the Commission found reason to believe that the RNC violated 2 U S C § 441b, a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"), by receiving an impermissible contribution.

Based on information available to the Commission, \$150,000 from the Federal Home Loan Mortgage Corporation ("Freddie Mac") may have been outside the building fund exemption Although the Bipartisan Campaign Reform Act of 2002 ("BCRA") changed the law in this area with respect to national parties, at the time, Freddie Mac was permitted to make donations covered by the "building fund exemption" because although Freddie Mac is a corporation organized by authority of Congress (and therefore prohibited from making a contribution in connection with any election to any political office) amounts in compliance with the exemption were permissible 2 U S C § 441b(a), 431(8)(B)(viii)(2002). The Commission alleges that the \$150,000 was outside of the building fund exemption because the check was not designated on its face for the building fund and the record lacks information on whether Freddie Mac followed corporate policy with respect to this donation

The Commission's Factual and Legal Analysis asserts that Freddie Mac donated \$150,000 to the RGA in October 2002 The Commission's analysis alleges that "[a]t that time, the RGA was part of the Republican National Committee" In fact, according to our records, the last date that RNSEC (then part of the RNC) deposited RGA contributions was September 6, 2002. Therefore, at the time of this contribution, RGA was operating independently of the RNC and thus has no liability in this matter. For this reason, the

Commission should take no further action against the RNC and Michael L. Retzer, as treasurer, and close the file

Respectfully submitted,

November 26, 2004

Fill Holtzman Vogel
Chief Counsel
Charles R Spies
Election Law Counsel

Counsel for the Republican National Committee, Michael L Retzer, as treasurer



MEMBERSHIP

A CONTRACTOR DESCRIPTION

## **RGA UNDER BCRA**

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independent political committee under Section 527 of the Internal Revenue Code in September 2002 In order to comply with the Bipartisan Campaign Reform Act of 2002 ("BCRA"), RGA became an and severed all ties with the Republican National Committee.

BCRA prohibits national party committees from raising, spending, soliciting or directing any money not permitted under federal law (i e "soft money") - in other words, money legal under state law is now illegal for the RNC, NRSC or NRCC In order for the RGA to continue being able to aid gubernatorial candidates with money legal under the laws of their states, the RGA had to separate itself from the RNC.

from corporations, trade associations, unions and individuals in any amount All expenditures in a state can be give to the new RGA Thanks to its new status, the RGA may continue to accept contributions There is NO CHANGE in the contributions the RGA may accept. BCRA does not affect what donors will be as permitted by state law The RGA may not accept money from foreign nationals

Since it is no longer a "national party committee", the RGA's legal status under a state's election laws may have changed. (It is most likely now a "PAC" under a state's law) That may impact the size of contributions to candidates or the amounts that may be given to state parties in a particular state We're evaluating each state's laws now It may be desirable to change some state aws in tandem with the Democrats

The new law does not affect the RGA's ability to do issue ads discussing state officials and leaders

The RGA will have more overhead expenses In the past, all administrative functions (payroll, reporting, bookkeeping, legal, etc ) were paid for by the RNC State parties' ability to help their candidates with voter registration, contact and turnout is greatly diminished, which creates a void that will have to be filled

("Vote Republican") means that only hard federal dollars can be used The state party will NOT be able Any mention of a federal candidate in a communication (printed or broadcast) or a generic message to use any state dollars to pay for these programs

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